

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

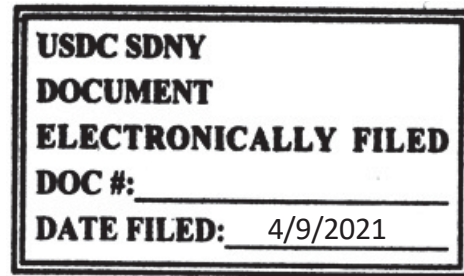
Hopeton Prendergast,

Plaintiff,

-against-

Cynthia Brann et al.,

Defendants.



1:20-cv-09418 (AT) (SDA)

ORDER OF SERVICE

STEWART D. AARON, United States Magistrate Judge:

Plaintiff, currently incarcerated at the Vernon C. Bain Center, brings this *pro se* action under 42 U.S.C. § 1983, alleging that jail officials are failing to protect him from contracting COVID-19.¹ By Order dated December 4, 2020, the Court granted Plaintiff's request to proceed without prepayment of fees, that is, *in forma pauperis*.¹ (Order, ECF No. 6.) Plaintiff filed a Second Amended Complaint on April 5, 2021.² (Second Am. Compl., ECF No. 13.)

ORDER OF SERVICE

A. Defendants Yang and Egan

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service. *Walker v. Schult*, 717 F.3d 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) ("The officers of the court shall issue and serve all process . . . in [IFP] cases."); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to

¹ Prisoners are not exempt from paying the full filing fee even when they have been granted permission to proceed in forma pauperis. *See* 28 U.S.C. § 1915(b)(1).

² The Court notes that Plaintiff signed the Second Amended Complaint on March 6, 2021 and delivered it to prison authorities for mailing (*see* Second Am. Compl. at 7), but it was not filed on the docket until April 5, 2021.

serve if the plaintiff is authorized to proceed IFP)).

To allow Plaintiff to effect service on Defendants Yang and Egan through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form ("USM-285 form") for each of these defendants. The Clerk of Court is further instructed to issue a summons and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon these defendants.

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

B. Defendant Brann

The Clerk of Court is directed to notify the New York City Department of Correction and the New York City Law Department of this Order. The Court requests that Commissioner Cynthia Brann waive service of summons.

CONCLUSION

The Clerk of Court is respectfully requested to electronically notify the New York City Department of Correction and the New York City Law Department of this Order. The Court requests that Defendant Brann waive service of summons.

The Clerk of Court is further requested to complete the USM-285 forms with the addresses for Yang and Egan and deliver all documents necessary to effect service to the U.S. Marshals Service.

Finally, the Clerk of Court is requested to mail a copy of this Order to the *pro se* Plaintiff, together with an information package.

SO ORDERED.

DATED: New York, New York
April 9, 2021

A handwritten signature in black ink, reading "Stewart D. Aaron". The signature is written in a cursive, flowing style. The first name "Stewart" is written with a capital 'S' and a lowercase 't'. The middle initial "D." is written with a capital 'D' and a period. The last name "Aaron" is written with a capital 'A' and a lowercase 'n'. The signature is positioned above a horizontal line.

STEWART D. AARON
United States Magistrate Judge

DEFENDANTS AND SERVICE ADDRESSES

1. Patricia Yang
Senior Vice President for Correctional Health Services
for NYC Health + Hospitals
55 Water Street
18th Floor
New York, New York 10041
2. Margaret Egan
Executive Director of the Board of Correction
1 Centre Street
Room 2213
New York, New York 10007